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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/593,093	09/15/2006	Shinobu Munekata	P71445US0	7832
136	7590	06/19/2009	EXAMINER	
JACOBSON HOLMAN PLLC			PICKARD, ALISON K	
400 SEVENTH STREET N.W.				
SUITE 600			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20004			3676	
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			06/19/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/593,093	MUNEKATA ET AL.	
	Examiner	Art Unit	
	Alison K. Pickard	3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 23 February 2009.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1 and 2 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The amendment added to lines 6-8 of claim 2 does not make sense. The amendment requires the washer to be provided in an inner peripheral portion of a main lip holding concave portion. However, the concave portion appears to be in the washer. It is unclear what is being claimed here.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Applicants' Admitted Prior Art Figure 5 in view of JP '154 in view of Paykin '082.

Applicants' Figure 5 discloses a known sealing device comprising a washer 101, main lip 102, dust lip 103, and outer peripheral lip 104. A rod guide 111 contacts the washer and is fixed to the outer peripheral member. It has an inner surface close to the outer surface of the shaft with a proper fastening margin. Figure 5 does not disclose an auxiliary lip. JP '154 teaches a sealing

device comprising a washer, main lip, dust lip. JP '154 teaches an auxiliary lip which seals a rod guide (not shown). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Figure 5 to include the lip to provide further sealing as taught by JP '154. The lip would extend parallel when abutting the surface of element 11 in Figure 5. Figure 5 does not disclose a backup ring. Paykin teaches the use of a back-up ring 15 between a portion of the main lip and washer to prevent extrusion of the main lip. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Figure 5 with a back-up ring to prevent extrusion of the main lip.

5. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over APA Figure 5 in view of Japanese Patent 10-082467 (JP '467) in view of Paykin '082.

Applicants' Figure 5 discloses a known sealing device comprising a washer 101, main lip 102, dust lip 103, rod guide, and outer peripheral lip 104. A rod guide 111 contacts the washer and is fixed to the outer peripheral member. It has an inner surface close to the outer surface of the shaft with a proper fastening margin. Figure 5 does not disclose an auxiliary lip. JP '467 teaches a sealing device comprising a washer, main lip, dust lip, and rod guide. JP '467 teaches providing an auxiliary lip 5 that contacts an inner periphery of a rod guide 7. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of the APA with the auxiliary lip of JP '467 since the substitution of a known element yields expected results. Figure 5 does not disclose a backup ring. Paykin teaches the use of a back-up ring 15 between a portion of the main lip and washer to prevent extrusion of the main lip. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Figure 5 with a back-up ring to prevent extrusion of the main lip.

Response to Arguments

6. Applicant's arguments filed 2-23-09 have been fully considered but they are not persuasive.

The rejection of APA in view of JP '154 in view of Paykin has been maintained. JP '154 appears to have a similar lip to Applicant's that would contact the inner periphery of a stepped portion of a rod guide as required. A rejection using JP '467 has been added as this also clearly teaches the claimed lip and rod guide.

Claim 2 appears to be allowable but is unclear do to the 112 2nd issue set forth above.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alison K. Pickard whose telephone number is 571-272-7062. The examiner can normally be reached on M-F (9-5).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer Gay can be reached on 571-272-7029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alison K. Pickard/
Primary Examiner, Art Unit 3676

AP